

RD AN No. 4081 (1980-D)  
May 4, 2005

TO: All State Directors  
Rural Development

ATTENTION: Rural Housing Program Directors,  
Guaranteed Rural Housing Specialists,  
Rural Development Managers, and  
Community Development Managers

FROM: Russell T. Davis *(Signed by Russell T. Davis)*  
Administrator  
Rural Housing Service

SUBJECT: Single Family Housing Guaranteed Loan Program  
Condominium Requirements

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to clarify Single Family Housing Guaranteed Loan Program (SFHGLP) condominium requirements, and how to determine if the condominium has been approved or accepted by the United States Department of Housing and Urban Development (HUD), Veteran Affairs (VA), Fannie Mae (FNMA), or Freddie Mac (FHLMC).

**COMPARISON WITH PREVIOUS AN:**

There is no prior AN on the subject.

EXPIRATION DATE:  
May 31, 2006

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

## **BACKGROUND:**

Condominium projects and their units are invariably served by homeowners associations. RD Instruction 1980-D, section 1980.311(c), states in part that:

“A dwelling served by a homeowners association (HOA) may be accepted when the project has been approved or accepted by HUD, VA, Fannie Mae, or Freddie Mac.”

Dwellings served by HOA's can be under three types of projects: Planned Unit Development (PUD), cooperatives, or condominiums. Other than condominiums, this AN does not apply to any dwellings served by an HOA.

### **Ineligible Properties**

Certain types of condominium projects are not eligible under HUD, Fannie Mae, Freddie Mac, or VA guidelines. They are:

- Condominium hotels
- Timeshares
- Houseboat projects
- Multi-dwelling unit condominiums that permit an owner to hold title to more than one dwelling by a single deed and mortgage.
- Any project for which the owner's association is named a party to current litigation or for a project that has not been turned over to the association for which the project sponsor or developer is named a party to current litigation.

### **Lender Self Certification and Warranty**

HUD, Fannie Mae, and Freddie Mac have delegated to lenders the authority to warrant that condominium projects meet their requirements. Lenders have the ability to “self certify” or warrant that condominiums purchased by Fannie Mae or Freddie Mac, or insured by HUD, meet the minimum requirements of those entities. Lenders can warrant that they have reviewed condominium documentation, that the condominium meets the requirements of HUD, Fannie Mae, or Freddie Mac, and that the documentation remains available in the lender file for verification purposes. The documentation containing the information necessary to determine if a condominium would be approved by HUD, Fannie Mae, or Freddie Mac are:

- a condominium questionnaire, and
- the condominium's master hazard insurance policy.

Neither the condominium questionnaire nor the master hazard insurance policy have form numbers. Condominium master hazard insurance policies are issued

by insurance companies. Each insurance company uses its own letterhead and format. The lender reviews the master insurance policy to determine the type of coverage and whether the policy offers coverage sufficient to meet requirements.

The condominium questionnaire typically is sent to the condominium HOA on the lender's letterhead. It contains questions about the number of units in the condominium project, how many of the units have been sold or rented, whether all the common areas have been 100 percent completed, and other questions concerning the condominium project.

The condominium's HOA officer or managing agent completes the questionnaire and returns it to the lender, who then reviews the questionnaire responses in order to determine whether HUD, Fannie Mae or Freddie Mac requirements have been fulfilled. The lender must retain all of the documentation in case HUD, Fannie Mae or Freddie Mac wish to examine it in order to determine that the lender's certification or warranty was truthful and correct.

In every case, the lender is responsible for keeping a copy of the condominium questionnaire, the condominium's master hazard insurance policy, and any other related documents in the lender's file. The lender does not produce the condominium documentation unless requested by HUD, Fannie Mae or Freddie Mac. Lenders retain the condominium documentation in file for audit purposes.

Lenders do not issue individual certifications or warranties to HUD, Fannie Mae, or Freddie Mac for each condominium unit. The warranty is part of the master contract between the lender and HUD, Fannie Mae, and Freddie Mac. By simply stating the project classification on the Uniform Underwriting and Transmittal Summary (Fannie Mae Form 1008, Freddie Mac Form 1077) the lender certifies that the condominium unit meets the requirements.

For the purpose of providing detail on what a lender certification or warranty attests to, please see Table 1 for HUD requirements, Table 2 for Freddie Mac requirements, and Table 3 for Fannie Mae requirements.

### HUD Condominium Types

As seen in Table 1, HUD has only two condominium types. They are "Proposed and New Construction" and "Approved New Projects with Construction Complete". Table 1 illustrates the differences between the two as it pertains to project phases, owner occupancy ratios, and other requirements.

### Freddie Mac Condominium Types

As seen in Table 2, Freddie Mac has three condominium types: Class I, Class II, and Class III. The different requirements between each of these condominium types are stratified on Table 2.

### Fannie Mae Condominium Types

Table 3 illustrates Fannie Mae condominium types, described as Type A, Type B, and Type C. Type B has two subcategories with different requirements based on the number of units in the condominium project. Type C has two subcategories depending on, (1.) whether the condominium project is established or, (2.) whether it is proposed construction, under construction, or a conversion. A condominium conversion is when units of an existing apartment building are bought by tenants or other purchasers, an HOA is established, and the building is converted into a condominium project.

### VA Requirements

The VA has not delegated to lenders the authority to warrant condominium projects. VA reviews each condominium's organizational documents for compliance with VA regulations, and notifies the lender in writing of VA's approval. The lender should retain the VA documentation in the lender's file, and it should be available upon request.

### **IMPLEMENTATION RESPONSIBILITIES:**

Participating lenders may certify to Rural Development that they have reviewed the condominium documentation, and that the condominium is in compliance with HUD, VA, Fannie Mae, or Freddie Mac guidelines. Rural Development's Condominium Certification Form (Exhibit A) is attached to this Administrative Notice. Its use is optional. Aside from the lender certification to Rural Development, all condominium documentation should remain in the lender's file and should be available upon request. The documentation must be provided if no certification is submitted.

When there is an indication that a condominium unit or project does not meet the requirements of HUD, VA, Fannie Mae or Freddie Mac, the Agency will request additional documentation from the lender. If the condominium unit or project does not meet the stated requirements as certified or warranted by the lender, the Agency may refuse to issue a conditional commitment or loan note guarantee.

Should there be any questions concerning this AN, please contact Victor McKoy or Joaquín Tremols, Single Family Housing Guaranteed Loan Division at (202) 720-1452.

Attachments

**Table 1 - HUD Condominium Requirements**

<b>Condo Type</b>	<b>Primary Residence</b>	<b>Subject to Phasing/Add-ons</b>	<b>Completion of the common elements and amenities</b>	<b>Pre-Sale Requirements</b> (number of units sold or conveyed prior to the sale of the subject property).	<b>Owner Occupancy Ratio Requirements</b>	<b>Control of Condominium Association</b>	<b>MasterHazard, Flood, Earthquake, Liability, &amp; Fidelity Coverage</b>
<b>Proposed and New Construction</b> (Excludes Manufactured Homes)	Yes	Yes	Not Required	70%	51%	Developer	100% Replacement
<b>Approved New Projects with Construction complete</b> (Excludes Manufactured Homes)	Yes	Not subject to phasing or add-ons	Required	80%	80%	Developer or unit owners	100% Replacement exclusive of land, foundation, & excavation

**Table 2 - Freddie Mac Condominium Requirements**

<b>Condo Type</b>	<b>Primary Residence</b>	<b>Subject to Phasing/Add-ons</b>	<b>Completion of the common elements and amenities</b>	<b>Pre-Sale Requirements</b> (number of units sold or conveyed prior to the sale of the subject property).	<b>Owner Occupancy Ratio Requirements</b>	<b>Control of Condominium Association</b>	<b>Master Hazard, Flood, Earthquake, Liability, &amp; Fidelity Coverage</b>
<b>Class I</b>	Yes	May be subject to phasing or add-ons.	Required	70%	70% by owners as Primary or 2 <sup>nd</sup> Homes	Developer	\$1 million
<b>Class II</b>	Yes	Not subject to phasing or add-ons	Required	70%	60% by owner as Primary or 2 <sup>nd</sup> Homes	Unit Owners	\$1 million
<b>Class III</b>	Yes	Not subject to phasing or add-ons	Required	90%	60% by owner as Primary or 2 <sup>nd</sup> Home	Unit owners have been in control for at least 1 year	\$1 million

**Table 3 - Fannie Mae Condominium Requirements**

<b>Condo Type</b>	<b>Primary Residence</b>	<b>Subject to Phasing/Add-ons</b>	<b>Completion of the common elements and amenities</b>	<b>Pre-Sale Requirements (number of units sold or conveyed prior to the sale of the subject property).</b>	<b>Owner Occupancy Ratio Requirements</b>	<b>Control of Condominium Association</b>	<b>Master Hazard, Flood, Earthquake, Liability, &amp; Fidelity Coverage</b>
<b>Type A</b> Established excluding Single-Width Manufactured Homes	Yes	Not subject to phasing or add-ons	Required	90%	60% by owner as Primary or 2 <sup>nd</sup> Homes	Unit owners have been in control for at least 1 year	\$1 million
<b>Type B</b> (2-4 units with separate metering)	Yes	Not subject to phasing or add-ons	Required	50%(1-2 units) 67%(3 units) 75%(4 units)	50%(1-2 units) 67%(3 units) 75%(4 units)	Developer or unit owners * See Footnotes	\$1 million
<b>Type B</b> (>-4 units) (New construction excluding single-width Manufactured Homes)	Yes	Not subject to phasing or add-ons	Required	70%	70%	Developer or unit owners *See Footnotes	\$1 million
<b>Type C</b> (Established)	Yes	Not subject to phasing or add-ons	Required (Including Master Association if applicable)	90%	60%	Unit owner for at least 2 years *See Footnotes	\$1 million
<b>Type C</b> (Proposed, under construction, and conversions)	Yes	Yes	Required (Including Master Association if applicable)	70%	70%	Developer	\$1 million

### Footnotes to Table 3 – Fannie Mae (FNMA) Condominium Requirements

<b>Type A Condominium</b>	<ol style="list-style-type: none"><li>1. No single entity may own more than 10% of the total units.</li><li>2. Units must be owned Fee Simple unless FNMA Waiver has been approved.</li></ol>
<b>Type B Condominium (2-4units)</b>	<ol style="list-style-type: none"><li>1. No single entity can own more than 1 unit.</li><li>2. Units must be owned Fee Simple unless FNMA Waiver has been approved.</li><li>3. Unit owners must have sole ownership interest and rights to the use of the project's facilities, common elements, and limited common elements once control of the owner's association is turned over.</li><li>4. Projects documentation must comply with FNMA guidelines.</li><li>5. Each small condominium must have its own separate legal documents.</li><li>6. Each unit must have separate metering.</li></ol>
<b>Type B Condominium (&gt;4units)</b>	<ol style="list-style-type: none"><li>1. No single entity other than the developer during the initial sales period may own more than 10% of the total units.</li><li>2. Projects with less than 10 units cannot allow a singles entity to own more than 1 unit.</li><li>3. Units must be owned Fee Simple unless FNMA Waiver has been approved.</li><li>4. Unit owners must have sole ownership interest and rights to the use of project's facilities common elements, and limited common elements once control of the association is turned over.</li><li>5. Not subject to additional phasing or annexation unless 5 years have elapsed since the project's documents were recorded.</li><li>6. Project must be acceptable under either Phase I or II of the environmental assessment.</li><li>7. All rehabilitation work for condominium conversions must be completed.</li></ol>
<b>Type C (Established)</b>	<ol style="list-style-type: none"><li>1. No single entity may own more than 10% of the total units.</li><li>2. Projects with less than 10 units cannot allow a singles entity to own more than 1 unit.</li><li>3. Units must be owned Fee Simple unless FNMA Waiver has been approved.</li><li>4. Unit owners must have sole ownership interest and rights to the use of project's facilities, common elements, and limited common elements once control of the association is turned over.</li></ol>
<b>Type C (Proposed) (Under construction) (Conversion)</b>	<ol style="list-style-type: none"><li>1. No single entity other than the developer during the initial sales period may own more than 10% of the total units.</li><li>2. If more than 30% of the total units are expected to be sold to investors lender must contact FNMA and request a waiver.</li><li>3. Projects with less than 10 units cannot allow a singles entity to own more than 1 unit.</li><li>4. Units must be owned Fee Simple unless FNMA Waiver has been approved.</li><li>5. FNMA will review and accept separate legal phases on a phase-by-phase basis.</li><li>6. Project must be acceptable under either Phase I or II of the environmental assessment.</li><li>7. All rehabilitation work for condominium conversions must be completed.</li></ol>



## Exhibit A

### Condominium Certification

This warranty certifies the dwelling served by the homeowners association and identified below has been approved or accepted by HUD, VA, Fannie Mae, or Freddie Mac. Documentation supporting this certification will be maintained in the lender's files and will be available for inspection by Rural Housing Service, United States Department of Agriculture upon request.

Borrower: \_\_\_\_\_

Property Address: \_\_\_\_\_

Lender: \_\_\_\_\_

Representative Name: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

